

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Ashley Ross
To Call Writer Directly:
+1 212 446 4954
ashley.ross@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

September 16, 2021

VIA ECF

The Honorable Loretta A. Preska
United States District Judge
Southern District of New York, U.S.
Courthouse, Courtroom 12A
500 Pearl St.
New York, NY 10007-1312

Re: Berall v. Verathon, Inc. et al., C.A. No. 1:10-cv-05777-LAP-DCF

Honorable Judge Preska:

Dr. Berall respectfully requests an extension of one week to submit his reply claim construction brief. The current deadline is September 30. Under this proposal, the revised deadline would be October 7. The reason for this request is to accommodate Defendant's expert Mr. Harold Walbrink's schedule for deposition on his declaration (Dkt. 331) submitted in support of Teleflex's claim construction brief (Dkt. 330), while allowing Berall sufficient time to incorporate that deposition testimony in his reply as applicable. Mr. Walbrink is unavailable to sit for his deposition until September 28, only two days prior to Berall's current deadline. Berall submits that he would have insufficient time to address and incorporate the deposition testimony in his reply under the current schedule, and submits that the requested extension would be justified under the circumstances.

Counsel for the parties have conferred, and Teleflex agrees to the extension, provided that Teleflex would likewise receive an additional week (21 days after service of the reply, compared to the current schedule which contemplates 14 days) to complete the deposition of any expert whose testimony Berall submits in reply to Mr. Walbrink's testimony, and to address such testimony in a submission to the Court. The current deadline for Defendant to depose Berall's expert is October 14. Under this proposal, to which Berall agrees, the revised deadline would be October 28.

In summary, the requested changes to the current schedule are as follows:

KIRKLAND & ELLIS LLP

The Honorable Loretta A. Preska
 September 16, 2021
 Page 2

Event	Current Deadline	Revised Deadline
Dr. Berall to serve and file a reply claim construction brief pursuant to Local Patent Rule 12(c)	Thursday, Sept. 30, 2021	Thursday, Oct. 7, 2021
If Dr. Berall submits expert testimony with his reply, defendants to complete any deposition of Dr. Berall's expert.	Thursday, Oct. 14, 2021	Thursday, Oct. 28, 2021

The parties have not previously requested an extension of deadlines for claim construction. These are the only currently set deadlines on the Scheduling Order (Dkt. 263) that would be affected. We appreciate the Court's consideration of this submission and ongoing attention to this matter.

Sincerely,

/s/ Ashley L.B. Ross

Ashley L.B. Ross

The extensions requested above are GRANTED.

SO ORDERED.

cc: Counsel of Record via ECF

Dated: September 17, 2021
 New York, New York



LORETTA A. PRESKA, U.S.D.J.